

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 19, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 128, 3/15/1999
Executive Action: SB 529

HEARING ON HB 128

Sponsor: REPRESENTATIVE KIM GILLAN, HD 11, BILLINGS

Proponents: Barbara Ranf, US West
Lance Tade, Citizen Commiittee
Mike Strand, Montana Independent Telephone Systems
Dennis Burr, Montana Taxpayers Association
Geoff Feiss, Montana Telecommunications Association

John McNamara, AT&T
Evan Barrett, Montana Economic Developers
Association
John Fitzpatrick, Touch America
Gloria Paladichuk, Richland Economic Development

Opponents: None

Informational Testimony: Mary Bryson, Director, Department of
Revenue

Opening Statement by Sponsor:

REP. KIM GILLAN, HD 11, Billings, said that **HB 128** basically revises the taxation of telecommunication providers in the state of Montana, but it is more than a tax bill and it is more than a change in tax policy. She said she feels that **HB 128** is a major step essential for Montana's long-term economic growth, because it will ensure that Montana will have the necessary telecommunications infrastructure needed to be competitive for jobs and income in the future.

REP. GILLAN said that currently there are over 400 telecommunication providers in the state of Montana. She explained that **HB 128** eliminates the telephone license tax in Section 40, and changes property tax rates and classes in Sections 32 through 35. These changes narrow the existing classifications of various telecommunication providers from four classes down to three and collapses the rates, which range from 3% to 12%, to 3% to 6%. She pointed out that co-ops will stay at 3% and will not be responsible for an excise tax.

REP. GILLAN stressed that as changes in the tax policy reduce the rates, the lost revenues will be made up by an excise tax of 3.75%. She said every effort has been made to make this revenue neutral and to make sure that state, local governments and schools are kept whole and that consumers are not affected negatively.

Proponents' Testimony:

Barbara Ranf, US West, provided a handout entitled "Montana's Property Taxation of Telecommunication Companies,"

EXHIBIT (tas62a01), which had a list of companies and what classes they fall in on the back.

Ms. Ranf said that changes in the telecommunication industry have resulted in companies providing the same services but being taxed

very differently. **HB 128** is the next step in bringing the benefits of competition to the marketplace in Montana. It makes Montana's taxation of telecommunications more competitive. US West sees these benefits from **HB 128**: 1) it reduces their property tax rates from 12% to 6%; 2) it eliminates the telephone license tax; and 3) it replaces the loss of revenues to local and state government from property tax reduction with a competitively neutral excise tax.

Ms. Ranf handed out a sample US West bill, **EXHIBIT (tas62a02)**, which demonstrated the effects of **HB 128** to a residential customer and a small business customer of US West. She then distributed a handout entitled "Potential Time Line for Modification of US West Rates - Property Tax Reduction," **EXHIBIT (tas62a03)**. She said US West will not recognize financial benefit and customers' bills will remain about the same, but that US West will benefit by having more competitive prices and the ability to invest in Montana's infrastructure in the future at a more competitive property tax rate.

Ms. Ranf said that **HB 128** leaves cooperatives at 3%, but it does have a provision in it which provides that when a cooperative comes into a territory and competes against other companies that are collecting that tax, they have to collect that excise tax. It does not change the property tax rate. Conversely, she said that an amendment was added on the House floor at the request of Ronan Telephone Company which states that when a company such as Ronan goes into a cooperative territory, they do not have to collect the excise tax.

Ms. Ranf said **HB 128** is critical legislation to encourage the benefits of competition in a telecommunications marketplace for Montana, and US West urges support and passage of this bill.

Lance Tade, Manager of Regulatory Affairs, Citizens Utilities Company, which is the parent company of Citizens Telecommunications Company of Montana, said that his company services 8500 customers in Lincoln County. He said in the past four years, Citizens has spent \$12 million to update the services provided. Citizens is a class nine company, their property tax rate is 12%, and they are required to pay the telephone license tax. He said there is a need to update Montana's property tax structure and to level the playing field, and **HB 128** does that. He urged support.

Mike Strand, Executive Vice President and General Counsel, Montana Independent Telecommunications Systems, said his organization represents rural telephone cooperatives and independent rural telephone companies. He said that as the

gradual deregulation continues, many of the long-standing parameters within which the telecommunications companies formerly operated have to change, and one set of those parameters is the tax system.

Mr. Strand said that **HB 128** brings greater competitive parity to the tax treatment of companies that provide the same or similar telecommunication services. It also recognizes that most of Montana's cooperatives are not utilizing their cooperative status to compete outside of their current service areas. Therefore, they are left alone under this bill unless they choose to compete with other companies, in which event they are required to collect the same excise taxes as the other companies collect. He also said that there are four companies that do not fit into the cooperative category but are also not in the large company category, and these are service areas like cooperatives but are for-profit companies. This bill places their property tax at 3%, but they must also collect the excise tax.

Mr. Strand testified that **HB 128** strikes a good balance between achieving the goals of deregulation and increased competition while recognizing some of the unique challenges of infrastructure development and maintenance in highly rural states like Montana.

Dennis Burr, Montana Taxpayers Association, said that one of the changes this legislation will make is that the taxes will now be enumerated on customers' bills, no matter who provides the telecommunication services. He said the two most important things in this bill are 1) a level playing field for companies that compete, and 2) a lowering of the incidence of the tax on these companies to encourage investment in Montana.

Geoff Feiss, General Manager, Montana Telecommunications Association, said that it is particularly the class nine commercial companies who benefit from this bill, but also there is a provision in this bill which affects class seven companies. This bill eliminates class seven and moves them into cooperative status and changes their 8% tax rate to a 3% tax rate with the excise tax applied to their customers.

Mr. Feiss said MTA has two proposed amendments. He provided a copy of the first one, **EXHIBIT (tas62a04)**, and said that the second one is conceptual at this point. He said the first amendment simply changes the requirement in the bill that says the excise tax "must" be passed through as a line item on the bill and makes it optional. He said the second amendment which they are working on is the provision that **Ms. Ranf** mentioned that was added on the House floor to address the concern expressed by Ronan Telephone Company.

Mr. Feiss also provided a letter from Calvin Simshaw of CenturyTel of Montana in support of **HB 128, EXHIBIT(tas62a05)**.

John McNamara, Regional Tax Director, AT&T, said that they agree that Montana's tax policy should be revised in order to equalize taxation. **HB 128** is a major step in that direction. This would create a tax environment in the state of Montana that is much more consistent with the tax environment that exists in the other states in the United States, and as a consequence, eliminates any barriers that the current tax policies might create in terms of investment in the state of Montana.

Mr. McNamara said that AT&T does not support the amendment to absorb the tax, but they urge passage of **HB 128**.

Evan Barrett, Montana Economic Developers Association, said his organization supports **HB 128** as a logical extension and completion of the deregulation process of telecommunications. From the perspective of his economic development, this is about investment in infrastructure. Montana needs to be in a competitive situation in terms of infrastructure investment on the part of telecommunications companies. **Mr. Barrett** said this is a revenue neutral bill, it provides for visible taxes, and they feel that it is an important mechanism to ensure that Montana is a favorable place for investment in telecommunications infrastructure which is a necessary prerequisite to having the kind of services needed to be competitive in the future.

John Fitzpatrick, Touch America, said that they support **HB 128**, but they do disagree with the amendment brought by MTA. They believe that the taxpayers benefit from seeing the taxes they are paying and they should have that right on their telecommunications bill as well.

Gloria Paladichuk, City of Glendive and Richland Economic Development, said she represents an area which is the only co-op in the state that is opposing this bill. She said she believes there needs to be a change in the reimbursement. She believes the bill should be fair to all parties, co-ops and US West or any other telecommunications companies coming into the area. She said competition is needed in eastern Montana and she believes **HB 128** would be good for eastern Montana. She said one of the reasons that Mid Rivers is opposing this bill is because they do not want to pass it on to their customers.

Opponents' Testimony: None

Informational Testimony:

Mary Bryson, Director, Department of Revenue, asked that the committee consider some amendments offered by the Department. She said **HB 128** does revise the taxation of telecommunications providers, and since the Department will be responsible for administering this new tax, they believe it might be appropriate to provide a little more definition about what would be included within the tax and upon what services the tax would be imposed. Amendments 1 and 2 address that. Amendment 3 is a coordination instruction that would bring all reimbursement mechanisms that are being considered by the legislature into one single reimbursement mechanism that might be considered in that legislation.

Questions from Committee Members and Responses:

SEN. DEPRATU asked what US West's position is on burying the tax costs rather than having it listed on the bill. **Ms. Ranf** said that businesses do not absorb taxes, they merely pass them on to their customers, and they are hidden. She said consumers benefit from knowing what their taxes are. It is part of open government and it is the company's responsibility to tell people that they are paying those taxes; therefore, it should be a line item on the bills.

SEN. DEPRATU asked if there was another Fiscal Note other than the one that has been provided, and **Jerry Leonard, Department of Revenue,** said that a revised Fiscal Note had been sent to the budget office, and it may be a few days before it comes out.

CHAIRMAN DEVLIN asked **REP. GILLAN** if she would like to comment on the Fiscal Note. **REP. GILLAN** said that it appears that an assumption was made that 3.75% excise tax could be levied on the total volume of calls; however, included in that volume of calls were federal calls, and there is question whether those calls can be subject to an excise tax. She said there is a revised Fiscal Note which now shows a deficit, and we need to find out what percentage they are calculating for the federal calls. She said it was not the intention of this bill to raise excess revenue nor to cause a black hole, so she asked the committee's patience while this information is verified.

CHAIRMAN DEVLIN asked the Department if their amendments would change the Fiscal Note, and **Ms. Bryson** said they will not. She said these amendments merely provide clarification.

SEN. ELLIS asked, when co-ops compete with investor owned utilities, whether they pay comparable property taxes in those

service areas. **Mr. Strand** said his companies have chosen not to compete with those companies. He said where they are competing, they have decided to create separate subsidiary rates that are taxed like other telecommunications businesses. If that position should be changed and one of their cooperatives chooses to compete in one of these areas, they would still pay the 3% property tax but they would collect the same excise tax as the other company.

SEN. ELLIS asked **Mr. Strand** to address the amendments presented by **Mr. Feiss**, and **Mr. Strand** said his organization does not support the amendment for absorbing the tax. He said they would rather see openness on both sides.

SEN. ELLIS asked **REP. GILLAN** to address that amendment. **REP. GILLAN** said this amendment was discussed during the House Taxation Committee hearing on the bill. She said she thinks that the feeling is that in other bills that have been passed unbundling and delineating what the taxation is has been stressed, and for the sake of all customers in Montana, she would suggest that this amendment be resisted.

CHAIRMAN DEVLIN asked **Mr. Strand** if he did not like the amendments, and **Mr. Strand** said they do not support the absorption-of-the-tax amendment, but did not see any particular problems with the Department's amendments, which simply clarify the definition of services.

SEN. ECK said that it had been mentioned that this bill is really about investment, and she wondered if Montana was keeping up with the latest technologies. **Ms. Ranf** said she could only speak to US West's investment in Montana, but US West is all digital at this point. US West invests about \$1 million a week in Montana to upgrade and maintain that network. She said Montana's tax structure is the highest in the country, and that makes it more difficult to make those investments.

SEN. ECK asked if someone else could address Montana's digital status across the state, and **Mr. Feiss** said his companies also invest about \$50 million a year in Montana. He said his companies are all digital, also, and he felt that the infrastructure in Montana is as good as other states. They are looking at ways to provide affordable access to the highest speed pipes going through the state.

SEN. ECK asked what the vision of the Department was, as far as this bill is concerned, in making the counties whole. **Ms. Bryson** said the Department is trying to use the same mechanism, the same methodology as far as a formula for distribution, and it could be

that the revenue that is generated from this telecommunications excise tax will be distributed in the same manner as any revenue that is generated. Primarily it addresses a dollar-for-dollar reimbursement to counties and cities and towns, and then restructures the school funding. A committee bill is being worked on in House Taxation which would accomplish that.

SEN. ELLINGSON said that there will probably be a percentage of Montanans who use satellite systems, and he wondered how an excise tax would be collected on telephone calls made through a satellite company that has no tangible presence in Montana. **Ms. Bryson** said the ability of whether the state can exert jurisdiction over those companies is a question that would have to be resolved because they don't have a physical presence. She said other states have dealt with that in the sales tax arena, and this is essentially a form of a sales tax.

CHAIRMAN DEVLIN asked what nexus stands for, and **Ms. Bryson** said it is a word that refers to a connection between entities.

SEN. ELLINGSON said that in the sales tax arena, this situation had been a problem, and so it could be a potential problem in regard to the excise tax, and **Ms. Bryson** said that was correct.

SEN. ELLINGSON referred to the handout provided by **Ms. Ranf**, and he said he understood that the concept was to be revenue neutral, which means the same amount of tax dollars spread over the same number of customers, so the average tax per customer should be the same. **Ms. Ranf** said that was correct, and in fact, probably goes beyond that in that resellers would be collecting that tax also. They are companies who own no property so they pay no property taxes, and they buy at wholesale services and then sell them at retail. The excise tax would apply to them also, so the tax should be spread a little thinner.

SEN. ELLINGSON said, then, that the tax is being spread over a broader base of users, and he wondered if that was the reason for the difference for the average residential customer and the average small business customer. **Ms. Ranf** said that is correct, the intent is to try to keep them whole, so their costs will be about the same for services.

SEN. ELLINGSON asked if the tax would be going up on these resellers from what it is presently, and **Ms. Ranf** said that in some regards it will. She said that most of those resellers are supposed to be paying the telephone license tax, but that it would go up somewhat for those who do not pay property tax.

SEN. STANG said that the handout indicates that because of the reduction in property tax, the Public Service Commission will probably reduce rates, and he wondered if the companies would be willing to insert some language that their rates would be reduced commensurate with the reduction in property tax even if the Public Service Commission did not reduce rates. **Ms. Ranf** said they would have no problem with that.

SEN. STANG said it was indicated by the proponents that the Public Service Commission would lower the rates because of the reduction in property taxes, and he wondered if the Public Service Commission thought it was necessary to put language into the bill to do that, or will the Public Service Commission automatically lower the rates. **Eric Eck, Public Service Commission**, said that it would not harm anything to put language in the bill to say that it was the intent of the legislature that that be done by the Commission.

SEN. STANG asked if it would happen anyway, and **Mr. Eck** said that US West had testified that they would do that, and he felt it would be incumbent on any company that had the old tax rates in their current cost of service to come before the Commission and reflect that change.

CHAIRMAN DEVLIN asked how the property tax is determined on a co-op that goes into an investor owned utility area, what part of their equipment is at each rate. **Ms. Bryson** said that **Gene Walborn** would be the one to answer that, and he is in a meeting in House Tax. She said her understanding is that the company would be valued as a co-op and then a portion of it would be allocated as to what their services are and the amount of services divided between the areas. **CHAIRMAN DEVLIN** asked if that would be income based or people based, and **Ms. Bryson** said she was not sure. **CHAIRMAN DEVLIN** said he would like that information, and **Ms. Bryson** said she would let him know later.

SEN. ECK said it had been mentioned that one of the problems with the Fiscal Note was that a tax was being imposed on the feds somehow, and she asked for an explanation. **Ms. Bryson** said that federal statute is very clear in that if the incidence of the tax is upon the consumer, then federal government is not subject to the tax. If the incidence of the tax is on the business or the seller of those services, the tax can be collected because their taxes are passed through and would, then, be collected from the federal government. **SEN. ECK** asked if the excise tax is on the consumer, and **Ms. Bryson** said the statute is very clear that the incidence of the tax is on the consumer. **SEN. ECK** asked if the amendment that would allow that excise tax to be hidden would

make it possible to collect it from the feds, and **Ms. Bryson** said she believed that since it is still on the consumer, it could not be collected from the federal government.

CHAIRMAN DEVLIN asked **Gene Walborn, Department of Revenue**, the question regarding co-ops operating in an investor owned utility area and how it is determined what part of their property tax is 6% and what part is 3%. **Mr. Walborn** said that this is very similar to provisions that were put into place for **SB 390** for the electric co-ops. If they compete directly, the Department has the ability to tax them at class nine rates or 12%. The co-ops report where their property is by levy district so the Department can tell what property is competing with the IOU or US West and the value is allocated based upon the property location.

CHAIRMAN DEVLIN asked what would happen if both were in the same taxing jurisdiction, and **REP. GILLAN** said that if a co-op goes into an incumbent area, their property tax status does not change, but they would have to levy the excise tax.

Closing by Sponsor:

REP. GILLAN said that in many respects this bill is very simple, and in others it is very complicated. She said she would resist the amendment that allows the tax to be hidden. She said she had a concern about the language in the Department's amendments which mentioned "ancillary." She said that needs to be checked carefully because the bill is specific as to which types of two-way communications would be subject to this excise tax. She said also that internet is not included because of the federal situation, and neither are telephone calling cards.

REP. GILLAN said she did not want telephone customers to be subsidizing other taxes with the excise tax, so she has some reservations about any kind of collective reimbursement mechanism. As far as the satellite concerns mentioned, **Ms. Ranf** had told her that if a telephone call originates or terminates in Montana and is billed in Montana, there is no problem with levying an excise tax. She said she would provide the committee some of the fiscal information that was used on the House floor which should make it easier to compare the new Fiscal Note which does include the federal government and addresses the 4Rs Act which was not addressed in the original Fiscal Note.

DISCUSSION ON SB 92 AND SB 424

CHAIRMAN DEVLIN appointed a subcommittee on **SB 92** and **SB 424**, which are both circuit-breaker bills. The subcommittee will be chaired by **SEN. ELLIS**, with **SEN. EKEGREN** and **SEN. ECK**.

DISCUSSION ON HB 248

CHAIRMAN DEVLIN said he would like **SEN. STANG** to do some research on **HB 248** regarding what the ramifications might be on the Bonneville Power situation. He said he was concerned that there may be a problem there and the committee needs to know for sure.

DISCUSSION ON SB 184

CHAIRMAN DEVLIN said that he had some amendments to put on **SB 184** which would then make it possible to get a revised Fiscal Note.

Mr. Heiman distributed copies of the amendments, **EXHIBIT (tas62a06)**, and explained that these amendments are aimed at **SB 195**. He said they were requested by **SEN. ELLIS** and drafted in conjunction with **Greg Petesch**.

SEN. ELLIS said that these amendments phase in the new values on property tax over four years, which will make a total of six years because we are already two years into it, and they go down to 3.46% for class four property. He said the purpose was to benefit homeowners without too much shifting. He said they limit ag benefits and make the homestead exemptions bigger. It has a 30% homestead exemption and a 13% comstead exemption, which is also phased in. The homestead exemption would be 15% the first year, 20% the next year, 25% the next year, and 30% the next year; the comstead will be roughly 6.5% and phased in right on into 13%. He said this gives about the same cost to the bill every year as far as the General Fund, and the cost is about equivalent to **HB 108** as it came to the Senate.

SEN. ELLIS said there are further amendments to make for the next reappraisal cycle. He said a reappraisal will take place in 2003, but that will be phased in over the next six years. It sets up a six-year reappraisal cycle.

SEN. STAND asked how timber property is handled in this bill, and **SEN. ELLIS** said this also reduces the multiplier for timber property to .35%, and it is phased in also.

Motion: **SEN. ELLIS MOVED SB018401.AGP, EXHIBIT (tas62a07).**

Discussion:

SEN. DEPRATU asked if this makes the timber multiplier revenue neutral, and **SEN. ELLIS** said it was. He provided a handout which explained the changes and impacts, **EXHIBIT (tas62a08).**

SEN. ECK asked what happens to "other" class four, which is vacant land, and **SEN. ELLIS** said it does not have an exemption. It just receives the reduction in the multiplier, which is phased in. **SEN. ECK** asked if this makes it revenue neutral, and **SEN. ELLIS** said they put in the same type of costs for the homestead and comstead exemptions as were in **HB 108**, except this bill preserves **SB 195** so that there is not a shock to these people who have to accept the new values. Instead of all in one year, it will come on over four years.

CHAIRMAN DEVLIN said that the purpose of this is to get a revised Fiscal Note. **SEN. ELLIS** said he thought the committee could expect the new Fiscal Note the first part of next week.

SEN. ELLINGSON asked what the rationale was behind phasing in the exemptions as you phase in the increase in property tax, and how it benefits residential property owners over simply putting in the entire exemption right away and putting in the new values right away. **SEN. ELLIS** said because the new value is phased in, it keeps the cost of the bill to the General Fund fairly constant throughout the four-year period. He said this does not result in as big a shift within class four to those people who saw the increases.

Vote: Motion carried 8-1 with Ellingson voting no.

EXECUTIVE ACTION ON SB 529

Motion: **SEN. STANG** MOVED THAT SB 529 DO PASS.

Discussion:

SEN. GLASER said it is a wonderful concept, but it certainly modifies the way the legislature deals with giving schools less money if they have fewer children, and it would prevent the committee doing anything for the oil and gas bill heard yesterday.

SEN. STANG said he did not think it would prevent the passage of the oil and gas bill heard yesterday, but it would make sure that the legislature assured that the counties that were affected by that bill were kept whole. He said he did not think it would change the way education is funded because it is a tax change, and the way education is funded is not changed. He said it would make the legislature do business differently, and that is what the people wanted with **CI-75**.

CHAIRMAN DEVLIN said that it would not be the same as **CI-75** because with that, before anything could be raised, there had to

be a vote, and this just addresses the local taxing jurisdictions.

SEN. ELLIS said he had not decided how to vote on this. He said even though it has a lot of appeal, it creates a lot of problems. He said this bill will cause the current inequities we have in our system to stay there.

SEN. GLASER said this really says, "The legislature is prohibited from causing loss of income to a school district," not to a child, but to a school district, so the legislature loses the ability under this bill to reduce the amount of state revenue that goes to a school if the number of children go down, as long as the number of school districts stay the same. He said he does not think a government can be run in that fashion.

CHAIRMAN DEVLIN asked, then, about a school district with a decrease in enrollment and which would currently see a reduction in state aid, and whether this bill would prohibit that. **SEN. STANG** said that the only way that would be prohibited is if the legislature changes a tax and the way the tax is administered. It says, "State prohibited from tax changes which result in local revenue loss or increased tax burden." It does not say anything about school funding.

SEN. ELLIS said he thought **SEN. STANG** would agree that it would have prevented the passage of **HB 667** and the equalization of schools, and **SEN. STANG** said that was correct, and it should have. He said that is why the citizens of Montana are angry, because property taxes across the state were shifted. **SEN. ELLIS** said you can't do both, when the Constitution says equalize and then it says you can't. **SEN. STANG** said that that might have meant that the legislature would have been here another 20 days trying to figure out a way to deal with that through the income tax system or some other system rather than to change the property tax system to do that, and revenue that was lost would have to have been backfilled. He said this bill basically says that we need to change the way we do business. It says that if we do bills like **SB 85** and **HB 174**, we need to look at the consequences and see that those entities are made whole.

SEN. EKEGREN asked if this would lock the legislature into a situation where every time they dealt with a tax, they would have to deal with this. **SEN. STANG** said that what has happened in the last 10 or 15 years is the legislature has given "tax breaks," and this just says that if a shift occurs, the legislature needs to make sure that those who are affected by the shift are made whole so that the tax is not shifted to another taxpayer. **SEN. EKEGREN** then asked what happens if there is a situation where the

state wants to lower monies provided to local governments, and **SEN. STANG** said that as long as it is a tax policy that makes a tax shift and the income is reduced, he felt it could be done. He said the legislature cannot create a tax shift that creates a hole for those people. **SEN. EKEGREN** asked if this would have an effect on **SB 260** or legislation of that nature with this locked into the Constitution. **SEN. STANG** said that **SB 260** does a good job of looking out for local governments and schools. This bill just says that in this case, local governments must be kept whole.

SEN. ECK reminded the committee of the bill in the last legislature regarding mandating to local governments. She said the good thing about this legislation is that it would create a very good dialog regarding the relationship between state and local taxation and finance.

SEN. ELLIS said he felt that the intention of this legislation is very good, but it is too limiting.

CHAIRMAN DEVLIN asked if this was just a political statement since no Republicans signed this bill. **SEN. STANG** said he did not know that it was, but he felt that all it does is say that if the state is going to shift tax mandates to local governments, it has to be funded. He said it is time to educate the public on the fact that if someone gets a tax break, someone else has to make it up.

SEN. EKEGREN said he did not see anything about "mandate," it just specifies a tax change. If the legislature does anything in the way of tax policy that affects local government, it has to be assured that the local governments are backfilled. **SEN. STANG** said it may not have the word "mandate" in it, but the law demands that school districts provide a certain level of education and if the funding for that is taken away, it forces a raise at the local level. If the legislature tells local governments and schools that they have to Constitutionally provide funding, it gives them the assurance that that will happen. **SEN. EKEGREN** said he would vote to get this out of committee so it could be debated on the floor, but he did not think it could get the two-thirds vote necessary.

SEN. BOHLINGER said he felt the language is very appealing, but he also felt that there have been instances where the legislature needed flexibility to take action and this may very well close the door on that kind of flexibility. He said he would not support this measure.

SEN. ELLINGSON reminded the committee that in MCA 1-2-114 there is a restriction that the legislature cannot introduce new laws which would require a local government to do a certain activity or that requires them to make a direct expenditure of additional funds without a specific means to fund the activity. He said he feels this proposed legislation is completely complimentary to that which is already on the books.

Secondly, **SEN. ELLINGSON** said **SEN. ELLIS** had offered the opinion that this is likely to breed resentment, and he agreed that there may be some resentment as a result of this, but he felt that it would also deal with a lot of resentment that is existing right now which is a result of the legislature's tax policies over the last 10 to 15 years that have shifted taxes to the local governments while at the state level taxes have been cut on various categories of taxpayers. He said he would vote in favor of this bill.

SEN. DEPRATU said he had agonized over this bill for several days, but he is not convinced that this is the right thing to do at the right time. He said because he cannot see into the future, he is not sure the legislature can always keep local governments whole. There are times when people are not only telling the legislature to control taxes on the state level, but they want taxes lowered at a local level, too. People are going to have to make the decision of whether they want particular services or not.

A discussion ensued as to whether a Constitutional amendment could be tabled, and it was decided that it could because there were mechanisms available to bring it out of committee if desired.

Substitute Motion/Vote: **SEN. DEPRATU MADE A SUBSTITUTE MOTION THAT SB 529 BE TABLED. Substitute motion carried 5-4, with Eck, Ekegren, Ellingson and Stang voting no** (Roll call vote #1).

FURTHER DISCUSSION ON SB 184

SEN. ELLIS said he had new figures on **SB 184** and he wanted to make a substitute motion on the amendment. He said new figures that the Department of Revenue had just provided, in order to keep the cost even, changed the 15%, 20%, 25% and 30%, to 16%, 21%, 26% and 30%. In other words, it loaded one more percent on all those first three percentages.

Motion: **SEN. ELLIS MOVED A CONCEPTUAL AMENDMENT TO KEEP THE COST OF THE BILL EQUAL THROUGH THE YEARS AND TO INSERT THE NEW FIGURES**

**OF 16%, 21%, 26% AND 30% INTO THE AMENDMENT AS THE PHASE-IN
NUMBERS FOR THE HOMESTEAD PROVISION.**

Discussion:

CHAIRMAN DEVLIN said that **SEN. ELLIS** had made a motion to amend the amendments, and **SEN. ELLIS** explained that this is just for the homestead provision, that the comstead provision is still being worked on.

Vote: **Motion carried 8-1 with Ellingson voting no.**

ADJOURNMENT

Adjournment: 10:06 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas62aad)